When Congress signed a deal in the waning days of 2011 to extend the payroll tax cut by two months, they paid for it by increasing and diverting fees charged by Fannie Mae and Freddie Mac to guarantee mortgages.

That may not be an accident, as the move could starve the two government-seized housing giants and boost languishing legislation designed to reform or dismantle them, analysts and Congressional staffers say.

At issue is a law approved Dec. 23 that extends tax cuts for roughly 160 million Americans. The deal requires Fannie Mae and Freddie Mac to hike the fees they normally would charge for guaranteeing credit risk and allocate that increase towards offsetting the cost of the tax cut extension. The Congressional Budget Office estimates that the fee hike will bring in $35.7 billion over ten years, bringing in between $3 and $4 billion a year.

The re-routing of new guarantee fee funds is expected to cause trouble for Edward DeMarco, the acting head of the nation's top housing regulator, the Federal Housing Finance Agency. DeMarco is charged with restoring the health of the two big mortgage firms but so far they have cost taxpayers $183 billion as of Dec. 14.

In the third quarter, Fannie Mae posted a net loss of $5.09 billion and had to pay another $2.49 billion in dividends to the Treasury. Fannie Mae, which describes guarantee fee income as the primary source of revenue for its single-family business, reported $1.9 billion in guarantee fee income for the three months ending Sept. 30, up from $1.8 billion during the same period in 2010.

Smaller Freddie Mac posted a net loss of $4.4 billion in the third quarter and made a dividend payment of $1.6 billion to the Treasury. Freddie Mac reported $913 million in guarantee fee income for the three months ending Sept. 30, slightly down from the $922 million it recorded for the same period in 2010.

Both Freddie and Fannie results show that the guarantee fee income did not come close to covering the firms' credit losses from borrower defaults — which the fee was developed to offset.

To counteract these disproportionate credit losses, DeMarco had pledged to gradually hike the guarantee fees in 2012. The fund diversion, analysts and Washington insiders say, make it more difficult, if not impossible, for him to do that. The firms also are under strict requirements to reduce the size of their portfolios by 10% a year, which is expected to result in cuts to net interest income.

“DeMarco can’t increase their portfolios and he can’t increase the volume of mortgages being guaranteed. The only knob he has to limit costs to Fannie and Freddie is to hike the guarantee fee and now that is being increasingly taken away by the government,” said Ralph Axel, analyst at Bank of America Merrill Lynch in New York. “By diverting their [Fannie and Freddie] revenue, legislators that drove the revenue diversion will likely receive increased support on Capitol Hill to have the two firms reformed.”

The extent of the damage to Fannie and Freddie from the bill so far is unclear. The statute requires FHFA to hike guarantee fees to cover the costs to Treasury by at least 10 basis points, which translates into roughly $15-a-month hike in fees on a $200,000 mortgage over the life of a 30-year-fixed mortgage.

The agency plans to implement that hike April 1. However the law also requires the agency to analyze whether further guarantee fee increases are necessary to “reflect the risk of loss” and put any increase in fees toward paying for the payroll tax cut. DeMarco plans to issue the results of the agency’s conclusions in early 2012.

According to Axel, Fannie and Freddie will likely be required to provide significantly more to Treasury than the 10 basis points minimum the statute requires. Once the FHFA completes its capital analysis, Axel argues that as much as 50 basis points addition to a 4% mortgage interest rate could be imposed, adding roughly $58 a month on a $200,000 mortgage, with the additional revenue again being used to pay off the U.S. debt and away from the coffers of Fannie and Freddie.

This diversion, along with large dividend fees and an inability to pay back Treasury for taxpayer costs in installments, make it seemingly impossible for the two firms to emerge from conservatorship or ever appear more healthy.

A House Republican staffer said one of the motivations for diverting guarantee fee revenue away from Fannie and Freddie is to starve the two mega-housing firms and keep pressure on lawmakers to dismantle them.

He added that there were people in the congressional leadership that want to see that they never come out of conservatorship, and the more that they can be prevented from paying back Treasury, the more likely Congress will legislate them out of existence.

The staffer noted that top legislators seeking to dismantle Fannie and Freddie are cutting off revenue streams for the firms because they are worried that they could one day accumulate enough money to buy themselves out of conservatorship. In that scenario, he added, there may be little or no impetus on Capitol Hill to abolish them.

Leading the effort on Capitol Hill to dismantle the two firms — which were taken over by the government and put into conservatorship in September 2008 — are a core group of Republican lawmakers on the House Financial Services Committee. The vast majority of lawmakers, Republican and Democratic, are still undecided about how to move forward. Read about Republican bills to overhaul Fannie and Freddie

A bill introduced by Rep. Jeb Hensarling, Republican of Texas, would eliminate all government backing for the two firms and use any guarantee fee hikes for deficit reduction. Hensarling told MarketWatch he has been a long-standing supporter of hiking the guarantee fee to help level the playing field and bring in the private market. Responding to a question about whether he was pleased that fee revenue was being used to pay for tax cuts, he said that he is “very concerned about revenue diversion” and that “you don’t always get exactly what you want” in negotiations.

Going in a completely different direction, another bill, introduced by **Rep. John Campbell**, a California Republican, and Rep. Gary Peters, a Michigan Democrat, would overhaul the federal mortgage financing system and set up as many as 15 or 20 firms that would buy loans, package and sell them with explicit government guarantees.

Bose George, analyst at Keefe, Bruyette & Woods, said that further increases in the fees are consistent with long-term policy goals of both political parties to decrease the role of Fannie and Freddie in the mortgage market. However, he added that the Obama administration would be opposed to a significant, quick hike in the fee, because it would undermine efforts by the Federal Reserve to boost the economy and keep interest rates low.

Mark Calabria, director of financial regulation studies at the Cato Institute, said Republicans agreed to the use of Fannie and Freddie fees because they wanted to push the Obama administration to move faster to hike the guarantee fee and drive the return of the private market.

The law puts FHFA’s DeMarco in a sticky situation, Calabria said.

“On the one hand his job is to nurse these companies back to health and if he can’t collect more guarantee fees to assist that, Fannie and Freddie are going to lose more money,” he said.